

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Assessment and Collection)	MD Docket No. 00-58
of Regulatory Fees for)	
Fiscal Year 2000)	

COMMENTS OF GE AMERICAN COMMUNICATIONS, INC.

GE American Communications, Inc. ("GE Americom"), by its attorneys, hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding relating to regulatory fees for Fiscal Year 2000, FCC 00-117 (rel. Apr. 3, 2000) (the "*Notice*").

The Commission should adopt its proposal to collect regulatory fees from Comsat for INTELSAT system space stations (*Notice* at ¶ 17). Assessment of these fees is necessary to ensure that Comsat is accountable for the regulatory costs incurred by the Commission with respect to Comsat's operations. The Commission should also follow up on its previous commitment to address issues relating to treatment of costs for new services. These issues were discussed in proceedings relating to Fiscal Year 1999 but still have not been resolved.

**I. COMSAT SHOULD PAY REGULATORY FEES
FOR INTELSAT SYSTEM SATELLITES**

GE Americom strongly supports the Commission's proposal to assess regulatory fees on Comsat with respect to INTELSAT satellites. GE Americom has long argued that Comsat-related charges are necessary so that – consistent with the

Communications Act – fees paid by other parties do not far exceed the benefits they receive from Commission regulatory activities, and Comsat does not receive an unfair competitive advantage.¹ Comsat’s past exemption from regulatory fee liability has meant that GE Americom and other private companies that compete with Comsat in the satellite services marketplace have been forced to pay costs attributable to regulation of Comsat.

The Commission has previously declined to assess geostationary satellite regulatory fees on Comsat because the Commission concluded that it lacked statutory authority to do so under Section 9 of the Communications Act.² However, as the *Notice* recognizes, the D.C. Circuit disagreed with the Commission’s interpretation. In *PanAmSat Corp. v. FCC*, 198 F.3d 890, 896 (D.C. Cir. 1999), the court held that the Commission “was mistaken in its conclusion that the statute compelled an exemption for Comsat” from the regulatory fee requirements. Furthermore, the court found that “Comsat’s payment of regulatory fees for its space stations would serve § 9’s general purpose of recovering the Commission’s costs for its regulatory activities.” *Id.* at 895. The court also noted that Comsat’s competitors pay the price of Comsat’s exemption through an increase in the amount of their own regulatory fees. *Id.* at 894 n.2.

¹ See, e.g., Comments of GE American Communications, Inc., MD Dkt. No. 98-200 (filed Jan. 7, 1999) at 6-8.

² See, e.g., *Assessment and Collection of Regulatory Fees for Fiscal Year 1999*, 14 FCC Rcd 9868, 9882-83 (1999) (“1999 Order”).

Congress has also addressed this issue since the Commission's last regulatory fees decision. Specifically, Section 641(c) of the Open Market Reorganization for the Betterment of International Telecommunications Act, Pub. Law 106-180, 114 Stat. 48 (2000) (the "ORBIT Act") expressly confers on the Commission the authority to impose regulatory fees on Comsat similar to those charged other providers of like services.

In light of these developments, the *Notice* seeks comment on the appropriate assessment of regulatory fees on Comsat. Specifically, the Commission asks whether a fee of \$94,650 per satellite should be assessed for all spacecraft in geostationary orbit, including the satellites used by Comsat in its operations.

Notice at ¶ 17.

GE Americom strongly supports the Commission's proposal to charge the same fee for all geostationary satellites, including the INTELSAT spacecraft used by Comsat. Imposition of these charges on Comsat is both consistent with the law and required to achieve equitable treatment of competing satellite service providers. Comsat has enjoyed a free ride for too long, and should now be required to bear a share of the costs of Commission regulation. Nothing in the nature of the services Comsat provides using INTELSAT spacecraft would justify assessing Comsat a lower fee per spacecraft or charging Comsat on a different basis than other satellite service providers. For these reasons, the Commission should adopt its proposal to charge Comsat the same per satellite fee for INTELSAT spacecraft that will be assessed on competing geostationary satellite licensees.

II. EXISTING SATELLITE LICENSEES SHOULD NOT BE REQUIRED TO BEAR THE COSTS FOR THE DEVELOPMENT OF NEW SERVICES

The Commission should also follow through on its commitment to reconsider the treatment of costs associated with the establishment of new services. GE Americom has repeatedly demonstrated that it is unfair and contrary to the requirements of the statute to impose on existing licensees the costs of developing new services.³ The Commission, however, has put off consideration of the issue again and again. Most recently, the Commission raised the issue in its 1998 *Notice of Inquiry* on regulatory fee matters.⁴ However, in its *Report and Order* last year, the Commission did not finally resolve the issue. *1999 Order*, 14 FCC Rcd at 9881-82. Acknowledging that the concept of a new services fee would require changes to the existing accounting system, the Commission committed to considering new services issues in the context of its discussions regarding rewriting the accounting system software. *Id.* at 9882.

The current *Notice*, however, contains no mention of the software revision project or the new services issue. GE Americom urges the Commission to recognize that fundamental fairness requires that costs relating to the development of new services must be accounted for separately and charged as overhead. These costs are not “reasonably related” to regulatory benefits for existing satellite

³ See, e.g., Comments of GE American Communications, Inc., MD Dkt. No. 98-200 (filed Jan. 7, 1999) at 3-5.

⁴ *Notice of Inquiry, Assessment and Collection of Regulatory Fees for Fiscal Year 1999*, 14 FCC Rcd 1113, 1119 (1998).

licensees. *See* 47 U.S.C. § 159(b)(1)(A). Accordingly, the Commission should develop accounting rules that permit costs for new services to be segregated and recovered from all fee payers.

CONCLUSION

For the foregoing reasons, the Commission should charge Comsat the same per-satellite fee for its use of INTELSAT spacecraft that other geostationary satellite licensees incur. In addition, the Commission should implement a separate accounting category for new services costs and charge those costs as overhead to all fee payers.

Respectfully submitted,

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